

FILED
US DISTRICT COURT
DISTRICT OF ALASKA

2005 DEC 12 PM 4:32

JP

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

AMERICAN AUTOMOBILE
ASSOCIATION,

Plaintiff,

vs.

SUK CHANG LEE (d/b/a AAA
AUTO BODY & MECHANICAL),

Defendant.

Case No. A05-059 CI [JWS]

**PLAINTIFF'S MOTION FOR COSTS AND
FEES INCURRED IN BRINGING ITS
MOTION FOR ORDER TO SHOW CAUSE**

Plaintiff American Automobile Association ("AAA") hereby submits this
Motion for Costs and Fees Incurred in Bringing Its Motion for Order to Show

Cause, in accordance with this Court's Order to Show Cause entered December 1, 2006.

I. BACKGROUND

Defendant Suk Chang Lee ("Defendant") has repeatedly failed to meet his obligations with respect to this case and to AAA. After first representing to AAA that he would cease all use of the AAA Marks nearly five years ago, Defendant has failed to live up to his promises. More recently, Defendant has ignored this Court's Default Judgment and injunction, which permanently enjoined Defendant from all use of AAA's trademarks and ordered Defendant to file with the Court and serve on AAA, by October 14, 2005, a report in writing, under oath, setting forth in detail the manner in which Defendant had complied with the Order.

The Court sent the Default Judgment to Defendant at his address of record, and to make sure it was received, AAA separately served it on Defendant on October 12, 2005. (See Declaration of Linda Vinson accompanying Plaintiff's Motion for Order to Show Cause, ¶ 4 & Exhibit A, attached thereto.) Defendant did not and still has not served AAA with a report detailing his compliance with the Court's Orders. In fact, AAA investigated and found that Defendant has failed to cease all use of the AAA Marks as ordered by this Court. (Vinson Decl., ¶ 6.)

AAA filed a Motion for Order to Show Cause why Defendant should not be held in contempt on November 10, 2005, and requested that it be awarded its fees and costs incurred in bringing the motion. This Court granted AAA's motion on December 1, 2005, and found that AAA was entitled to recover its reasonable fees and costs. Accordingly, AAA asks that it be awarded the fees and costs as detailed herein and in the accompanying supporting declarations by Carl J.D. Bauman and Richard W. Smith, which are incorporated by reference.

II. COSTS AND FEES

AAA seeks the award of the following fees and costs:

Attorney's Fees

Firm	Hours	Avg. Rate	Fee
Hughes Bauman Pfiffner	3.6	\$231.67	\$ 834.00
Gorski & Seedorf, LLC			
McDermott Will & Emery LLP	15	\$345.00	\$5,175.00
TOTAL:			\$6,009.00

Costs

Purpose	Cost
Copying	\$52.44
Postage	\$29.94
Telecommunications	\$ 0.30
Photo development	\$ 7.20
TOTAL:	\$89.88

These attorney's fees and costs are reasonable. With respect to the attorney's fees, the totals represent a reasonable number of hours expended in connection with the motion multiplied by reasonable hourly rates. See *Jordan v.*

Multnomah County, 815 F.2d 1258, 1262 (9th Cir. 1987) (laying out the method for determining reasonable attorney's fees in the Ninth Circuit). In the 18.6 total hours spent preparing this motion, attorneys for AAA investigated Mr. Lee's failure to comply with the Court's order, his continued infringing use of the "AAA" trademarks, considered the most prudent strategy for remedying Mr. Lee's contemptuous conduct, researched, drafted and edited the motion, and filed it with the Court.

The rates charged to AAA are reasonable. AAA's trademarks protection program is international in scope, calling for the involvement and coordination by national intellectual property counsel, like Richard Smith of McDermott Will & Emery. Mr. Smith has served as national litigation counsel for AAA in intellectual property matters for seven years, and has represented AAA in connection with this particular litigation matter for more than five years. He is uniquely familiar with AAA, its program of trademark protection, and its legal requirements, allowing him to perform legal work efficiently on AAA's behalf. Much of the work on this motion was performed by Sarah Brown, a first-year associate under Mr. Smith's supervision who specializes in intellectual property litigation. McDermott Will & Emery's rates are in accord with other national law firms of its quality, as explained in the accompanying affidavit of Mr. Smith.

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In addition, appropriate work connected with this motion was performed by Carl Bauman of Hughes Bauman Piffner Gorski & Seedorf, LLC in Anchorage, Alaska. Mr. Bauman has handled several litigation matters with Mr. Smith for AAA, and is thus familiar with AAA and its legal needs, allowing him to efficiently perform legal work on AAA's behalf. Hughes Bauman's rates are in accord with other Alaska firms, as attested to in Mr. Bauman's accompanying declaration.

III. CONCLUSION

For the reasons set forth in this motion and the accompanying declarations of Mr. Smith and Mr. Bauman, AAA asks that the Court award it the \$6,009.00 in attorney's fees and \$89.88 in costs incurred in bringing its successful Motion for Order to Show Cause.

Respectfully submitted this 12th day of December, 2005.

HUGHES BAUMAN PFIFFNER
GORSKI & SEEDORF, LLC

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American Automobile Association

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DECLARATION OF
CARL J.D. BAUMAN DOCUMENTING
PLAINTIFF'S ATTORNEYS' FEES

Carl J.D. Bauman states as follows:

1. I am a senior member with the law firm of Hughes Bauman Pfiffner Gorski & Seedorf, LLC ("Hughes Bauman"), based in Anchorage, Alaska. I am

one of the lawyers representing Plaintiff American Automobile Association ("AAA") in this lawsuit. I have personal knowledge of the information set forth in this declaration.

2. Attached hereto as Exhibit A are true and correct copies of a Hughes Bauman invoice and a Hughes Bauman billing memorandum describing the work performed by me and by my assistant in connection with the relevant motion. Charges unrelated to this motion have been redacted. All of these costs and fees either have been or will be billed to AAA by Hughes Bauman.

3. My hourly rate charged to AAA in connection with this motion was \$275.00, which was my standard rate during the relevant time period. I billed 2.8 hours in connection with determining Defendant's noncompliance, reviewing and revising the motion and related documents, and other tasks as more fully described in Exhibit A.

4. Linda Vinson is an employee Hughes Bauman who serves as a Lawyer's Assistant. Ms. Vinson's hourly rate charged to AAA in connection with this motion was \$80.00, which was her standard rate during the relevant time period. Ms. Vinson billed 0.8 hours to AAA in connection with determining Defendant's noncompliance, revising and preparing the motion and related documents for filing, and other tasks as more fully described in Exhibit A.

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5. AAA has incurred \$834 in attorney's fees directly related to work performed by Hughes Bauman in connection with this motion, as described in Exhibit A, for which it seeks recovery from Defendant pursuant to the Court's December 1, 2005 Order.

6. AAA has incurred \$48.12 in costs directly related to work performed by Hughes Bauman in connection with this motion. These costs include:

a. \$12.50 in photocopy charges, which were incurred in connection with the motion and related documents.

b. \$28.42 in postage charges, which were incurred in connection with transmitting material related to the motion to co-counsel.

c. \$7.20 for development of photos documenting Defendant's noncompliance, which were attached as exhibits to the motion.

7. The total amount of fees and costs incurred to AAA by Hughes Bauman and being sought by AAA in connection with the motion is \$882.12.

8. Hughes Bauman is well-respected law firm with more than 65 years of litigation experience, including the area of intellectual property.

9. Based on my years of experience and familiarity with standards of practice and legal fees for trademark infringement and similar intellectual property disputes pending in federal court, I believe the fees and expenses described above were necessarily incurred in connection with AAA's bringing of

the motion, and that they were reasonable in amount. Based on those same factors, I believe the hourly rates charged by me and my assistant described above are consistent with rates charged in Alaska, in light of our educational backgrounds, work experience, firm reputation, and the nature of this case, among other factors.

10. AAA has either paid or agreed to pay all of Hughes Bauman's above-described fees and expenses in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

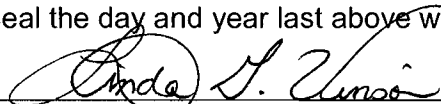
Executed on December 12, 2005.



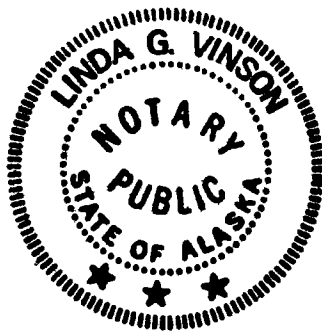
Carl J.D. Bauman

THIS IS TO CERTIFY that on the 12th day of December, 2005, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Carl Bauman, to me known and known to me to be the identical individual described in and who executed the within and foregoing document freely and voluntarily for the uses and purposes mentioned therein.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Notary Public in and for the State of Alaska
My Commission Expires: 12/21/2008



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